JUNE AND JULY 2011

As summer came to Washington, the eyes of the world focused on how and when Members of Congress and the Administration would deal with the need to lift the nation's debt ceiling. With an August 2nd deadline looming, proposals ranged from legislation to simply raise the debt ceiling to speculation of a 'Grand Bargain' that would reduce the national debt by more than four trillion dollars over 10 years by making major entitlement and tax code changes. Meanwhile, a year after its enactment, the debate continued over the impact of the Dodd-Frank Act with sharply different views – the Senate celebrated the anniversary as a victory for consumers and investors while the House of Representatives advanced legislation to repeal many of its most significant reforms.

ISSUES AND EVENTS

CalPERS CEO Joins Debate Regarding Nation's Debt Crisis

As the deadline for Congress to pass an increase to the nation's debt limit approached, CalPERS CEO Anne Stausboll joined nine other pension fund leaders in sending a stern message to Capitol Hill. An open letter titled "A Call to Reason - and Action," warned that if America's credit is downgraded, the "fallout will be felt all across America."

The letter detailed economic devastation that was likely to occur if Congress and the White House fail to reach agreement on bringing down the country's deficit. "Our country faces threats to its economic well-being that will inflict pain and hardship on all our citizens for many years to come if we fail to act – and act now," the letter said. It was signed by local pension fund officials from across the country representing 7.7 million active and retired members with assets of more than one trillion dollars.

Similarly, warning that a failure to raise the debt limit would endanger the economic recovery, 14 CEOs signed a letter sent on behalf of the Financial Services

Forum, a nonpartisan group that represents the chief executive officers of the largest financial firms.

"A default on our nation's obligations, or a downgrade of America's credit rating, would be a tremendous blow to business and investor confidence — raising interest rates for everyone who borrows, undermining the value of the dollar and roiling stock and bond markets — and, therefore, dramatically worsening our nation's already difficult economic circumstances," they wrote. "Given this very real risk, policymakers must correct our fiscal course now, inspire market confidence by paying all of our bills on time, and demonstrate that America is a democracy capable of putting differences aside to solve our most challenging problems."

Fears about possible credit rating repercussions became reality as Standard & Poor's Ratings Service rattled financial markets by changing its outlook for U.S. government debt from "stable" to "negative" over concerns that lawmakers might not reach an agreement on deficit reduction in time to raise the debt ceiling August 2nd. The news caused the U.S. dollar to drop in value against the euro and oil prices fell. In New York the S&P 500 stock index declined while in Europe the main French, German and United Kingdom stock indexes also fell. Moody's joined in that assessment, releasing the following statement: "Reductions of the magnitude now being proposed, if adopted, would likely lead Moody's to adopt a negative outlook on the AAA rating," the credit rating agency said in a new report.

DC Appeals Court Overturns SEC Proxy Access Rule

The U. S. Securities and Exchange Commission (SEC) acted arbitrarily and capriciously in adopting a rule providing certain shareowners access to corporate proxies, a three-judge appellate panel ruled on July 22.

Following the adoption by the SEC of a final proxy access rule last summer, the Business Roundtable, US Chamber of Commerce and others challenged the agency's rulemaking process. The business groups argued that the SEC failed to properly assess the economic impact of the rule on corporate America. The three-judge panel of the US Court of Appeals for the DC Circuit agreed unanimously.

"Here the Commission inconsistently and opportunistically framed the cost and benefits of the rule," wrote Judge Douglas Ginsburg. The SEC "failed adequately to quantify the certain costs or to explain why those costs could not be quantified; neglected to support its predictive judgments; contradicted itself; and failed to respond to substantial problems raised by commenters," Judge Ginsburg continued.

Proxy access – or the ability for certain shareowners to place a director nominee on a proxy card distributed by management – has been long sought by public pension funds and other institutional investors as a way of holding boards of directors accountable for effectively overseeing management and reigning in excessive risk and compensation. Language reaffirming the SEC's authority to issue such rules was included in the Dodd-Frank Wall Street Reform and Consumer Protection Act last year.

Institutional investors applauded the original SEC rule and supported the agency's rulemaking process once it had been sued. "The SEC rule is a reasonable, balanced solution," a group of institutional investors, including CalPERS, wrote in a friend of the court brief. The rule would have established ownership thresholds and hold periods to ensure that only shareowners with a significant, long-term interest be allowed to directly nominate a director for inclusion on management's proxy card.

In testimony before the U.S. Senate Banking Committee presented just days before the decision, CalPERS Senior Portfolio Manager Anne Simpson said, "The most fundamental of investor rights is the right to nominate, elect and remove directors." "The United States is virtually alone in world markets by not providing capital providers the ability to hold their stewards to account," added Simpson.

"The court's decision is deeply disappointing to long-term shareowners," said Ann Yerger, executive director of the Council of Institutional Investors. "We think the court got it wrong. We will continue to advocate for proxy access and will encourage the SEC to promptly address the court's concerns." According to Yerger, proxy access "would invigorate board elections and make boards more responsive to shareowners and more vigilant in their oversight of companies."

Dodd-Frank "Celebrates" First Birthday

While Senate Democrats celebrated the anniversary of the Dodd-Frank Wall Street Reform & Consumer Protection Act with a hearing that featured testimony from Congressman Barney Frank, House Republicans continued to advance legislation that would repeal key provisions of the landmark financial reform legislation.

The House Financial Services Committee took aim at Dodd-Frank by endorsing legislation that would repeal the provision of Dodd-Frank that removes the regulatory exemption from Securities Act section 11 liability for credit rating agencies. CalPERS strongly opposed efforts to repeal this and other provisions of Dodd-Frank in letter which was delivered to the Committee earlier in June.

Deputy Secretary of the Treasurer, Neal S. Wolin told the Senate Committee on Banking, Housing and Urban Affairs that the weakest parts of the nation's banking system have been shored up and are on markedly improved footing. "As the crisis made clear, prior to the enactment of Dodd-Frank the financial system we had lacked such a foundation, and was weak and susceptible to crisis," Wolin said.

Senate Banking Committee Chairman Tim Johnson (D-SD) highlighted a poll conducted by Lake Research Partners that shows overwhelming bipartisan support for the Dodd-Frank Wall Street Reform and Consumer Protection Act. The poll found that voters favor full implementation of the Wall Street Reform Act by a 3 to 1 margin. The poll also found that 74% of voters, including 68% of Republicans, support the creation of a single agency solely focused on consumer financial protection.

"This poll is further proof that the American people understand the importance of greater oversight of Wall Street, and the need for an effective and independent consumer financial watchdog," said Chairman Johnson.

CalPERS' corporate governance chief, Anne Simpson, told the Senate Banking Committee on July 12th that CalPERS has a vested interest in the integrity and efficiency of the capital markets and strongly supports the corporate governance reforms included in the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Simpson told the Committee that, "while some have criticized reforming Wall Street, I believe we must give these provisions a chance to work to protect investors and American families who depend on our financial system." CalPERS' long-term investment strategy doesn't allow the plan to "simply sell our shares when things go wrong," Simpson said. "As a result, corporate governance issues are of great concern to us and those on whose behalf we are investing: the public servants such as the police officers, firefighters, school employees and others who rely on us for their retirement security."

In contrast, Senator Richard Shelby (R-AL), the Committee's Ranking Member, openly attacked the corporate governance provisions. "The passage of Dodd-Frank did little to protect investors," Shelby argued. He specifically identified the proxy access provisions and subsequent SEC rule as an example of reforms that could hurt the average investor. "Special interest groups like unions, state pensions funds and hedge funds will now have the and leverage to force public companies to adopt politically motivated agendas," he continued.

Consumer Financial Protection Bureau Takes First Actions

"Two years ago, the consumer agency was just barely an idea. A year ago it became law. And this week, the CFPB will open its doors and begin to make a difference in the marketplace," Elizabeth Warren, Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau (CFPB), announced on July 21. "This agency is ready to be a cop on the beat for American families – and I couldn't be prouder."

The newly formed CFPB sent introductory letters to the CEOs of depositories – large banks and their affiliates – explaining they are subject to CFPB supervision.

It was the first step in communication aimed at informing banks how the CFPB will handle supervision and examination, and a signal that the CFPB's Enforcement team is ready to begin enforcing federal consumer financial laws.

Also, the CFPB's Consumer Response Center began accepting credit card complaints on its newly redesigned website, ConsumerFinance.gov, and through a toll-free number. The agency expects to expand its Consumer Response Center in coming months to handle complaints about other consumer financial products and services under its jurisdiction.

However, as the CFPB opens its doors, Congressional Republicans are still attempting to amend Dodd-Frank to replace a single appointee as agency executive in favor of a bi-partisan committee. In addition, Senate Republicans have pledged to block President Obama's nominee to head the new agency.

Senators Introduce Legislation to Close Loophole in Health Care Reform

Senators on both sides of the aisle have introduced bills to close a loophole in the Affordable Care Act (ACA) that would allow early retirees to be eligible for Medicaid coverage. The loophole was identified by Medicare's Chief Actuary and the Congressional Budget Office estimates closing it could save more than $13 billion.

Senator Mike Enzi (R-WY), Ranking Member on the Senate Health Education, Labor and Pensions Committee, and Ben Nelson (D-NE) each introduced bills to accomplish the same goal, with Nelson's bill including language that he claims will direct any savings to pay down the national debt.

The ACA specifies how to determine an individual's eligibility for Medicaid on the basis of income. Enzi and Nelson want to ensure that all Medicaid applicants count Social Security benefits as part of individual income. Currently, retirees who earn up to $58,840 a year, including their income from Social Security, could be eligible for Medicaid coverage. Most federal low-income assistance programs count Social Security benefits as part of an individual's income.

Ron Pollack, executive director and vice president of the consumer advocacy group Families USA, expressed concerned that a fix could cut out people who receive Social Security disability benefits but are not yet eligible for Medicare.

"It would appear reasonable to make an adjustment so that Social Security income is counted for that group between 62 and not yet 65," said Pollack. "But I worry about the other group that is composed of people with very substantial and chronic disabilities who have potentially huge health care bills."

Similar legislation has been introduced in the House.

Senate Hearing Focuses on "Power of Pensions"

"Today, we are going to take a close look at the important role pensions can play in building a strong, vibrant middle class, both in terms of the economic security they provide to retired Americans and because of the role they play in growing our nation's economy and creating jobs. After a lifetime of hard work, every American deserves to feel secure and independent in retirement so they can enjoy their golden years," Senator Tom Harkin (D-IA) said as he convened a hearing by the Senate Health, Education, Labor & Pensions (HELP) Committee.

"This hearing is called "The Power of Pensions" because traditional pensions – defined benefit pensions – really are powerful. They have the power to afford millions of middle class families the opportunity to feel secure in retirement and to enjoy their golden years without being subject to whims and gyrations of the stock market. Retired Americans need to know that they are going to get a check every month, no matter how long they live. That's real retirement security – the kind people want and need," Chairman Harkin added.

Speaking to the committee, Diane Oakley, Executive Director of the National Institute on Retirement Security (NIRS), said that retirees with guaranteed pension payments are a critical component of local economies.

"NIRS calculated that that each dollar of the over $151.7 billion in DB pension benefit expenditures made from state and local pension benefits in 2006 supported $2.36 in economic activity." She also testified that, "Comparing pensions to individual retirement accounts, we note that guaranteed pension income means retirees need not worry about reducing spending with every dip in the stock market."

She also pointed to a report from the Federal Reserve System on June 9, 2011, showing assets in Private Sector Retirement Funds and State and Local Government Employee Retirement Funds have almost reached their 2007 year-end values, recouping losses that occurred as a result of the stock market collapse of 2008-2009.

During testimony by David Marchick, Managing Director of The Carlyle Group, a global asset management firm with $150 billion in assets, Mr. Marchick stated four primary strengths of DB pension plans:

- They provide essential liquidity in US financial markets.
- They outperform DC plans especially where individual investors are making decisions.
- They are critical drivers of growth & economic activity.
- Pension funds provide the bulk of growth for venture and growth capital, real estate and private equity investments – all of which in turn create jobs and fluid economy.

"Through the years, I have been a supporter of the traditional defined benefit plan system as it forms one of the key legs of our three-legged retirement system, together with 401(k)s, IRAs and Social Security," said Senator Mike Enzi (R-WY), the HELP Committee Ranking Member. "I also recognize that if people do not save enough through their 401(k)s and IRAs for retirement then these people will place a greater strain on our very shaky federal entitlement programs. However, we have to be realistic. The private sector's traditional defined benefit system is heading towards extinction. The system has become too burdensome, too complex, too volatile and too costly for companies to maintain," Senator Enzi added.

On the same day CalPERS announced its own study regarding the power or pensions. Appearing at the *Women in Finance Investment Symposium* sponsored by the U.S. Department of the Treasury, CalPERS CEO Anne Stausboll discussed a new report that reveals that last year CalPERS benefit payments generated $26 billion in economic activity and supported more than 93,600 jobs across the state. Stausboll said every dollar paid to a CalPERS beneficiary stimulated $2.26 in economic activity and that statewide this resulted in $26 billion – nearly a half percent of California's $1.875 trillion economy, the eighth largest in the world.

"The evidence from this study is clear: CalPERS retirement checks are a powerful engine helping to drive California's economy," Stausboll said.

HHS Releases Initial Blueprint for Affordable Insurance Exchanges

On July 11th, the U.S. Department of Health and Human Services (HHS) proposed a framework to assist states in building Affordable Insurance Exchanges, state-based competitive marketplaces where individuals and small businesses will be able to purchase affordable private health insurance and have the same insurance choices as members of Congress. According to HHS, starting in 2014, Exchanges will make it easy for individuals and small businesses to compare health plans, get answers to questions, find out if they are eligible for tax credits for private insurance or health programs like the Children's Health Insurance Program (CHIP), and enroll in a health plan that meets their needs.

"Exchanges offer Americans competition, choice, and clout," said HHS Secretary Kathleen Sebelius. "Insurance companies will compete for business on a transparent, level playing field, driving down costs; and Exchanges will give individuals and small businesses the same purchasing power as big businesses and a choice of plans to fit their needs."

HHS proposed new rules offering states guidance and options on how to structure their Exchanges in two key areas:

- Setting standards for establishing Exchanges, setting up a Small Business Health Options Program (SHOP), performing the basic functions of an Exchange, and certifying health plans for participation in the Exchange, and;

- Ensuring premium stability for plans and enrollees in the Exchange, especially in the early years as new people come in to Exchanges to shop for health insurance.

Forty-nine states, the District of Columbia and four territories accepted grants to help plan and operate Exchanges. In addition, over half of all states are taking additional action beyond receiving a planning grant such as passing legislation or taking Administrative action to begin building exchanges. States will continue to implement exchanges on different schedules through 2014.

Shareholder Protection Act Reintroduced

The Shareholder Protection Act would require CEOs to receive annual shareholder approval of an overall political expenditure budget and mandate board ratification of specific campaign expenditures in excess of $50,000. Shareholders and investors would be notified of these campaign spending decisions, which would also be posted on the Internet for the public to see.

The bill was introduced by Rep. Michael Capuano (D-MA) and Sens. Robert Menendez (D-NJ) and Richard Blumenthal (D-CT). Forty-three House members, including seven California members (Reps. Eshoo, Filner, Lee, Roybal-Allard, Stark, Waters, and Woolsey), and five senators have signed on as original co-sponsors of the legislation.

The bill was drafted in response to the U.S. Supreme Court's decision last year in *Citizens United v. Federal Election Commission*, which gave corporations the First Amendment right to spend unlimited amounts of money to influence elections. In a statement the bill's co-sponsors claimed that, "In 2010, fresh off the *Citizens United* decision, outside groups spent $294 million to influence the [mid-term election] results – more than four times as much as they spent in the previous midterm election. Of that total, 46 percent came from groups that did not disclose their donors."

GASB Proposes Major Changes In Pension Accounting and Reporting

The Governmental Accounting Standards Board (GASB) has issued two Exposure Drafts proposing significant changes to financial reporting of pensions by state and local governments: *Accounting and Financial Reporting for Pensions and Financial Reporting for Pension Plans.*

The first Exposure Draft, *Accounting and Financial Reporting for Pensions* (Pension Exposure Draft), primarily relates to reporting by governments that provide pensions to their employees. A second related Exposure Draft, *Financial Reporting for Pension Plans,* (Pension Plan Exposure Draft), addresses the reporting by the pension plans that administer those benefits.

"Users of state and local government financial reports have told the GASB that current standards do not provide enough information to adequately understand the cost and the liability for benefits promised to active and retired employees," stated GASB Chairman Robert H. Attmore. "The proposals contained in these Exposure Drafts are the result of years of research and extensive deliberations by the Board to address these issues and make financial reporting of pensions more transparent, comparable and useful to citizens, legislators, and bond analysts."

The Pensions Exposure Draft proposes that governments be required to report in their statement of financial position a *net pension liability* which is the difference between the total pension liability and net assets (primarily investments reported at fair value) set aside in a qualified trust to pay benefits to current employees, retirees, and their beneficiaries. It also proposes significant changes to how a government would calculate its total pension liability and pension expense. These changes include:

- Immediate recognition of more components of pension expense than is currently required, including the effect on the pension liability of changes in benefit terms, rather than deferral and amortization over as many as 30 years which is common for funding purposes.
- Use of a discount rate that applies (a) the expected long-term rate of return on pension plan investments for which plan assets are expected to be available to make projected benefit payments and (b) the interest rate on a tax-exempt 30-year AA-or-higher rated municipal bond index to projected benefit payments for which plan assets are not expected to be available for long-term investment in a qualified trust.
- A single actuarial cost allocation method—"entry age normal"—rather than the current choice among six actuarial cost methods. Requiring governments participating in cost-sharing multiple employer pension plans to record a liability equal to their proportionate share of any net pension liability for the cost-sharing plan as a whole.
- Requiring governments in all types of covered pension plans to present more extensive note disclosures and required supplementary information.

In a joint statement, the National Association of State Retirement Administrators (NASRA) and the National Council on Teacher Retirement (NCTR) stated "Government sponsors and their defined benefit pension plans will be challenged by the tough new changes to its regulations that GASB is proposing."

SEC Holds Roundtable on International Financial Reporting Standards

The U.S. Securities and Exchange Commission (SEC) held a Roundtable to discuss issues related to incorporating International Financial Reporting Standards (IFRS) for US issuers. The Roundtable was part of an ongoing effort by the Commission to consider specific areas and factors relevant to a Commission determination as to whether, when, and how the current financial reporting system for U.S. issuers should be transitioned to a system incorporating IFRS. The SEC staff is currently studying multiple approaches for incorporating IFRS into the U.S. financial reporting system.

Investment Officer Mary Morris, who represented CalPERS at the Roundtable, discussed CalPERS role in the global equities market and stated that financial reporting is crucial to market integrity.

"CalPERS believes that convergence of international accounting standards, to a single-high quality set of standards, is critical in the wake of the recent global financial crisis, particularly in light of the G20 recognition that the need for convergence is a market fundamental," Morris said.

The Commission has not yet made a decision as to whether and, if so, how, to incorporate IFRS into the financial reporting system for U.S. issuers. CalPERS is currently reviewing the SEC staff paper and looks forward to continuing to comment on the SEC's Work Plan for Incorporating IFRS into the Financial reporting System for US Issuers.

SEC Approves New Rules on 'Pay-to-Play,' Hedge Fund Registration

The Securities and Exchange Commission (SEC) adopted regulations that will revise "pay-to-play" rules for investment advisers and will require advisers to hedge funds and other private funds to register with the agency.

The rules implement provisions of the 2010 financial regulations reform law.

Under new rules aimed at preventing the use of political contributions to influence advisory contract awards, an investment adviser will be permitted to pay a registered municipal advisor to act as a placement agent to solicit government entities on its behalf if the municipal advisor is subject to a pay-to-play rule adopted by the Municipal Securities Rulemaking Board that is at least as stringent as the investment adviser pay-to-play rule. Advisers will also continue to be permitted to hire as a placement agent an SEC-registered investment adviser or broker-dealer who is subject to a pay-to-play rule adopted by the Financial Industry Regulatory Authority that is at least as stringent as the investment adviser pay-to-play rule.

The new registration rule, meanwhile, will require advisors to hedge funds and private funds with more than $150 million in assets or at least 15 clients in the United States to provide the SEC with basic organizational and operational information about each fund they manage and identification of five categories of "gatekeepers" that perform critical roles for advisers and the private funds they manage. In addition, the commission is working on regulations that will require advisers to submit information about the types of clients they advise, their employees and their advisory activities, as well as any business practices that may present significant conflicts of interest.

Funds with between $25 million and $100 million in assets will be required to register at the state level, while those with assets of $100-150 million may choose between state and SEC oversight.

"These rules will fill a key gap in the regulatory landscape," SEC Chairman Mary Schapiro said. "In particular, our proposal will give the commission and the public insight into hedge fund and other private fund managers who previously conducted their work under the radar and outside the vision of regulators."

CalPERS has expressed opposition to legislation under consideration by the House Financial Services Committee that would exempt advisers to private equity funds from registration requirements.

Proposal Would Allow Use of Medicare Data for Cost, Quality Comparisons

The Centers for Medicare and Medicaid Services (CMS) has proposed a rule that would allow Medicare records to be used to develop cost and quality data about health care providers.

The proposal would allow qualified organizations to have access to Medicare information so that they could combine it with private sector data to produce public reports on provider performance. CMS officials noted that groups such as health plans that now create these reports are limited to the small data sets produced by their own members, which can result in the production of multiple contradictory ratings for providers.

"Making more Medicare data available can make it easier for employers and consumers to make smart decisions about their health care," CMS Administrator Donald Berwick said. "Performance reports that include Medicare data will result in higher quality and more cost effective care. And making our health care system more transparent promotes competition and drives costs down."

The information provided by CMS would be patient-protected, and the reports produced by participating organizations would include only aggregate data with no personal information about any individuals.

CalPERS, which has a history of compiling and using cost, quality and effectiveness data about health care providers, applauded the CMS proposal.

"Improving insight into cost and quality variations is an integral part of transforming the health care system for all," said Ann Boynton, CalPERS deputy executive officer for benefit programs policy and planning. "CalPERS has saved millions of dollars and improved the quality of care for our 1.3 million members by obtaining more complete and reliable data from our plans' physician and hospital networks. We couldn't have identified higher-quality and cost-effective providers without that information."

RELATED NATIONAL AND INDUSTRY NEWS

CPRS Representative Details Flaws in Forcing Social Security on Public Workers

Requiring all public employees to participate in Social Security "would create significant new cost pressures for the affected state and local government jurisdictions while providing only minimal benefit to the program," a representative of the Coalition to Preserve Retirement Security told Congress.

Tim Lee, the executive director of the Texas Retired Teachers Association, spoke on behalf of CPRS, an anti-mandatory coverage group that CalPERS helped to form, at a hearing of the House Ways and Means Committee's Social Security Subcommittee.

The hearing focused on Social Security's finances, and one proposal that has been offered at times to partially improve the program's financial condition would require all newly-hired state and local workers to participate. (The 2010 presidential commission on reducing the deficit endorsed this.) Lee, a member of the CPRS Board of Directors, noted that the improvement to Social Security's financial outlook would be minimal and that the additional costs that the measure would impose on public employers "would almost certainly result in cutbacks to their existing defined benefit plans, cuts in government services and/or increases in taxes or fees to absorb the added costs."

"The disruption that would likely occur for these public jurisdictions and their workers seems a high price to pay for adding an estimated two years of solvency to the Social Security program," Lee said, referring to a Government Accountability Office report on the effect that state and local participation would have on Social Security. "It is estimated that mandatory Social Security coverage would cost the affected states and localities $44 billion over 5 years. This additional financial burden – which will impact all 50 states to one degree or another – could be an insurmountable budgetary hurdle particularly during these very difficult days of huge revenue shortfalls hitting virtually every state."

NIRS Identifies Six Key Factors for Public Pensions

The National Institute on Retirement Security (NIRS) has identified six features and practices that appear to contribute to the financial well-being of public sector pension plans, even during difficult economic times.

In a report released in late June, NIRS presented the findings of its study of six public plans that remain well-funded even after the recession and market downturn of recent years. It found that the plans had six fiscally conservative characteristics in common:

1. Employer pension contributions that cover the full amount of the annual required contribution.
2. Employee pension contributions.
3. Benefit improvements, such as multiplier increases, that are actuarially valued before adoption and properly funded upon adoption.
4. Cost of living adjustments (COLAs) that are granted responsibly, such as an ad hoc COLA that is amortized quickly, or an automatic COLA that is capped at a modest level.
5. "Anti-spiking" measures that ensure actuarial integrity and transparency in pension benefit determination.
6. Economic actuarial assumptions, including both the discount rate and inflation rate that can reasonably be expected to be achieved over the long term.

"Unfortunately, scant attention is focused on public pension plans that were structured in ways that enabled them to weather severe market turmoil," NIRS Executive Director Diane Oakley said. "Separate from this study, data show that the vast majority of public pensions were well-funded going into the financial crisis, took a severe blow like all investors, and are recovering as the financial markets rebound. As such, we hope this new study serves to refocus pension policy debate on a productive, pragmatic examination of pension plans that remained strong even after a decade of unprecedented financial market ups and downs."

The studied plans included the Delaware State Employees Pension Plan, the Idaho Public Employee Retirement Fund, the Illinois Municipal Retirement Fund, the New York State Teachers' Retirement System, the North Carolina Teachers and State Employees Retirement System and the Teacher Retirement System of Texas.

NIRS Responds to Claims of Business Flight Driven by Public Pensions

A public pension organization is challenging claims that pension funding challenges are driving businesses out of certain states.

An article in the May-June issue of *Chief Executive* magazine stated that, in addition to other budget problems such as rising health care costs and declining tax revenues, "states are now facing what experts suggest is a $3 trillion-plus shortfall in assets needed to cover promises made to government workers and retirees." (Funding projections can be calculated in multiple ways, and members of the public pension community generally assert that total long-term shortfalls are about one-fourth that amount.)

"The crushing debt load is hurting states' competitiveness as America's business leaders recognize that 'pension reform' mostly entails tweaking unrealistic pension funding formulas for newly-hired workers across the country – the path that meets with the least resistance from unions but also brings little near-term savings for taxpayers," the article stated. "As a result, CEOs of businesses in the most profligate states are exploring the possibility of moving their companies elsewhere."

The article, which quoted executives from several companies expressing concerns about their states' finances, identified California as one of four states with the "largest and most immediate pension problems."

The executive director of the National Institute on Retirement Security, however, wrote in a May 31 letter to the editor of *Chief Executive* that a recent study found that pension contributions account for only 3.8 percent of state and local spending and that "leaping to the conclusion that public pensions are the reason behind lagging competitiveness, increased outsourcing, and states' budget challenges is absurd when in most states pensions represent a small portion of budgets."

"The article also fails to note," Diane Oakley added in the letter, "that in most states, the majority of pension benefits are paid for with employee contributions and investment returns – not tax dollars."

The letter also noted that much of the current pension funding problem resulted from the 2008-2009 financial crisis and market downturn and that many funds have recovered significantly since then, to the point that, even at the end of 2009, "public pensions in aggregate had pre-funded 80% of benefits not payable until decades in the future."

"A retirement race to the bottom is bad public policy," Oakley wrote. "When millions of private sector workers are unable to be self-sufficient in retirement, it's inevitable that they will turn to governments or others to help put food on the table. That is precisely why state governments continue to provide modest pensions with an average monthly benefit of about $1,900. It's unfortunate that *CEO Magazine* misrepresents the financial state of public pensions while failing to see the real looming crisis – that millions of elder Americans are unable to be self-sufficient in retirement."

California Congressman Wants Medigap Medical Loss Ratios to Match Private Sector

Two Democratic lawmakers have introduced two bills in the House and Senate that would require Medigap medical loss ratios to match those of private insurers. The intent is to ensure more of each premium dollar is spent on actual medical care, and not on administrative costs.

The Affordable Care Act requires insurance plans in the group market to spend at least 85 cents of each premium dollar on medical care, and insurers in the individual market to spend 80 cents of each premium dollar on medical services. So far, the new requirements do not apply to Medigap. Legislation introduced by Rep. Pete Stark, (D-CA)., and a companion Senate bill by John Kerry (D-MA), would require Medigap insurance plans to meet the same MLR standards as other health insurers. If passed, the new standards will take place in 2014. Henry Waxman (D-CA), Ranking Member of the House Energy and Commerce Committee, and Frank Pallone, Jr. (D-NJ), Ranking Member of the committee's Health Subcommittee, are original cosponsors of Stark's measure.

California Representatives Pushing for Drug Rebates in Medicare Part D

Three Democratic congressmen from California have proposed legislation that is intended to save the federal government $112 billion over 10 years by requiring certain drug manufacturer rebates in Medicare Part D.

"The Medicare Drug Savings Act of 2011" would require prescription drug manufacturers to provide the government with rebates on drugs for Part D beneficiaries who are eligible for both Medicare and Medicaid. The government received rebates on drugs for these "dual eligibles" before the Part D benefit was created in 2006 and still receives rebates for Medicaid beneficiaries who are not in Medicare.

The bill is sponsored by Rep. Henry Waxman of California and is co-sponsored by, among three others, California Reps. George Miller and Pete Stark.

"The federal government is the largest payor for seniors' drugs, and it is absurd we do not use our bargaining power to negotiate drug discounts with the high-profit pharmaceutical industry," Miller said. "This bill will improve Medicare and Medicaid's sustainability while still providing the needed benefits our nation's citizens depend on."

The legislation would require drug manufacturers to pay the difference between the average rebates they are paying to private Part D drug plans and 23.1 percent of the average manufacturer price.

A companion bill was introduced in the Senate by Sen. Jay Rockefeller, D-W.V., with Sen. Barbara Boxer, D-Calif., one of nine co-sponsors.